

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM H SAFFO,

Plaintiff,

v.

OWENS et al.

Defendants.

CASE NO. 2:20-CV-01781-BHS-DWC

ORDER

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff proceeding *pro se* and *in forma pauperis* (“IFP”), initiated this action on December 2, 2020. Dkt. 1. Before the Court is Plaintiff’s Motion to Terminate the IFP Fee (“Motion”). Dkt. 12. In, addition, Defendant Turner has not filed a waiver of service. *See* Dkt.

1 1. **Motion**

2 Plaintiff moves for the Court to terminate the twenty (20) percent monthly filing fee
3 installment payment which is being deducted from his account at the King County Jail. Dkt. 12.

4 To the extent Plaintiff is challenging the installment payments of the filing fee, Plaintiff
5 was granted leave to proceed IFP in this case. Dkt. 4. “If a prisoner brings a civil action or files
6 an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee”
7 through payments deducted from the prisoner's prison trust account. 28 U.S.C. § 1915. In
8 submitting his application for IFP, Plaintiff signed the acknowledgment and authorization form,
9 *see* Dkt. 4 at 3, which provides Plaintiff is responsible for the payment of the full \$350.00 filing
10 fee under 28 U.S.C. § 1915, *id.* The form also provides the agency having custody of Plaintiff
11 (King County Jail) will collect from Plaintiff's account the initial partial filing fee and monthly
12 installment payments of twenty (20) percent until the filing fee is paid in full. *See id.* “Filing fees
13 are part of the costs of litigation,” and prisoner cases are no exception. *Slaughter v. Carey*, 2007
14 WL 1865501, at *1 (E.D. Cal. 2007) (quoting *Lucien v. DeTella*, 141 F.3d 773, 775 (7th Cir.
15 1998)). Plaintiff does not identify, nor does the court find, any precedent permitting the Court to
16 terminate the payment of the filing fee in this situation. Accordingly, Plaintiff's Motion is
17 denied.

18 In addition, Plaintiff argues when he resumes his civil suit against the jail, his family will
19 pay the filing fee directly to the Court.¹ Dkt. 12. Although unclear, it appears Plaintiff may be
20 seeking to voluntarily dismiss his case. *See id.* Without more detail, the Court declines to take
21 any action on such a request at this time. If Plaintiff does seek to voluntarily dismiss his case, he
22

23 ¹ Plaintiff also alleges the King County Jail does not provide paper, pencils, or envelopes and charges
24 \$48.00 for a ream of paper. Dkt. 12. To the extent Plaintiff seeks to challenge his right of access to the courts,
Plaintiff must file a separate civil lawsuit.

1 must file a motion for voluntary dismissal clearly indicating such intent. However, Plaintiff is
 2 advised he will still remain responsible for monthly installment payments of the filing fee if he
 3 chooses to voluntarily dismiss this case. *See Green v. Bank of America*, 2012 WL 5032414, at *1
 4 (E.D. Cal. Oct. 17, 2012) (denying refund of filing fee after *pro se* plaintiff voluntarily dismissed
 5 complaint under Rule 41 (a)); *Slaughter*, 2007 WL 1865501, at 1 (internal citation omitted)
 6 (inmates who proceeded *pro se* and *in forma pauperis* were not entitled to refund of appellate
 7 fees or to cancellation of indebtedness for unpaid appellate fees after they withdrew their
 8 appeals).

9 **2. Waiver of Service – Defendant Turner**

10 On July 7, 2020, the Court directed service of the Complaint (Dkt. 5) on Defendants
 11 Turner and Owens. Dkt. 6.

12 Defendant Turner has not returned a signed waiver of service, but counsel has entered an
 13 appearance on Defendant Turner's behalf. Dkt. 9. The Answer was filed on behalf of both
 14 Defendants Turner and Owens. Dkt. 10. While the Answer does not challenge proper service,
 15 Defendant Turner has failed to timely return a signed waiver of service. *See* Dkt. 10. Therefore,
 16 in order to ensure the record is accurate and complete in this case, the Court orders counsel for
 17 Defendant Turner to file a waiver of service on or before March 22, 2021. If Defendant Turner
 18 fails to do so, the Court may direct the U.S. Marshal to personally serve him and assess the cost
 19 of personal service pursuant to Federal Rule of Civil Procedure 4(d)(2).

20
 21 Dated this 22nd day of February, 2021.

22
 23 

24 David W. Christel
 United States Magistrate Judge